

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TOMMIE E. PHILLIPS, SR.

Plaintiff,

v.

CITY OF RICHMOND, et al.,

Defendants.

No. C 04-0285 PJH

**SECOND SUPPLEMENTAL
FINAL PRETRIAL ORDER**

Before the court are plaintiff's motion for reconsideration of this court's final pretrial order and his motion in limine to exclude defendant's exhibit 31. Both motions have been opposed and the court rules as follows:

1. Plaintiff's motion for reconsideration is GRANTED IN PART and DENIED IN PART. At issue are five proposed exhibits which were first listed on plaintiff's two supplemental exhibit lists filed late, in violation of this court's order for pretrial preparation. With regard to exhibits 69-72, the motion is DENIED as plaintiff has provided no good cause for his untimeliness or the relevance of the exhibits themselves and the court finds that the failure to modify the pretrial order will not result in manifest injustice. These exhibits may not be admitted at trial. With regard to exhibit 73, the motion is GRANTED. Although it is not clear from the papers where plaintiff got the document, it does appear responsive to his discovery request and defendants do not appear to have produced it. This document may be admitted at trial, assuming the appropriate foundation and sponsoring witness.

2. Plaintiff's motion in limine to exclude defendants' exhibit 31, is DENIED, as untimely and on the merits for the reasons advanced by defendants.

IT IS SO ORDERED.

Dated: October 4, 2005



PHYLLIS J. HAMILTON
United States District Judge